IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION CASE NO. 3:21-CV-369-MOC-DCK

KEVIN FONSECA,)
Plaintiff,)
v.	ORDER
I.B.T. TEAMSTERS LOCAL UNION 71, and ERNEST WRENN,)))
Defendants.)
	_)

THIS MATTER IS BEFORE THE COURT on "Defendant's Motion To Stay Discovery" (Document No. 18) and "Plaintiff's Motion To Compel Full and Complete Discovery For Production Of Documents" (Document No. 28). These motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and are ripe for disposition. Having carefully considered the motions and the record, the undersigned will grant the motion to stay and deny the motion to compel, without prejudice.

Pro se Plaintiff Kevin Fonseca ("Plaintiff" or "Fonseca") initiated this action with the filing of a "Complaint" (Document No. 1) on July 26, 2021. Defendants Teamsters Local Union 71 and Ernest Wrenn ("Defendants") filed their "Answer and Defenses" (Document No. 8) on August 24, 2021. Soon after the Answer was filed, the Court provided pro se Plaintiff with a "Notice Of Availability Of Pro Se Settlement Assistance Program" (Document No. 9); and on September 10, 2021, Plaintiff informed the Court he would participate in the Pro Se Settlement Assistance Program ("PSAP"). See (Document No. 12).

"Defendant's Motion To Stay Discovery" (Document No. 18) was then filed November 11, 2021 By the pending motion, Defendants seek to stay discovery obligations pending the

outcome of the PSAP, a ruling on a motion to consolidate, and a ruling on "Defendant's forthcoming motion for judgment on the pleadings." (Document No. 18). About a week later, before the Court was able to confirm PSAP counsel, Plaintiff informed the Court he was opting out of the opportunity to participate in PSAP. (Document Nos. 21 and 22).

On December 7, 2021, the Honorable Max O. Cogburn, Jr. issued an "Order" (Document No. 26) consolidating this case with <u>Fonseca v. Teamsters Local Union 71 & Ernest Wrenn</u>, No. 3:21-CV-450-MOC-DSC.

"Plaintiff's Motion To Compel Full and Complete Discovery For Production Of Documents" (Document No. 28) was filed December 16, 2021. Also now pending is "Defendants' Motion For Judgment On The Pleadings" (Document No. 29) filed December 20, 2021.

On January 26, 2022, Judge Cogburn entered an Order allowing *pro se* Plaintiff 30 days to file an Amended Complaint and advising Plaintiff that if he failed to file an Amended Complaint, the Court "will address Defendant's pending motion for judgment on the pleadings based on the allegations in the original Complaint." (Document No. 36, p. 2).

The undersigned observes that the Court has not issued a "Pretrial Order And Case Management Plan" in this case, and is unlikely to do so until the "...Motion For Judgment On The Pleadings" is finally resolved and/or an Amended Complaint has been filed. Therefore, Court enforceable discovery has not begun in this matter.

Based on the parties' motions and the record of this case, the undersigned agrees that discovery in this matter should be stayed pending a final decision by the Court on "Defendants' Motion For Judgment On The Pleadings" (Document No. 29).

IT IS, THEREFORE, ORDERED that "Defendant's Motion To Stay Discovery" (Document No. 18) is **GRANTED**. Discovery in this matter is **STAYED** until otherwise ordered by the Court.

IT IS FURTHER ORDERED that "Plaintiff's Motion To Compel Full and Complete Discovery For Production Of Documents" (Document No. 28) is **DENIED WITHOUT PREJUDICE**.

SO ORDERED.

Signed: January 28, 2022

David C. Keesler

United States Magistrate Judge